

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director / (954) 797-1101  
Prepared by: Fernando Leiva, AICP, Planning & Zoning Manager

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** Townwide

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA EXPRESSING SUPPORT FOR REVISIONS TO BROWARD COUNTY'S EVALUATION AND APPRAISAL REPORT AND SUBSEQUENT CHANGES TO THE BROWARD COUNTY LAND USE PLAN, AS OUTLINED IN THE ATTACHED EXHIBIT "A," TO PROTECT THE ABILITY TO REDEVELOP AND THE HOME RULE AUTHORITY OF MUNICIPALITIES IN BROWARD COUNTY; PROVIDING FOR DISTRIBUTION OF RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Town of Davie recently approved a resolution to execute a contract with Weiss Serotta Helfman Pastoriza Gueldes Cole & Boniske, P.A. and David M. Orshesfsky, P.A. for planning services regarding agency comments, in coordination with other municipalities, on the 2004 Broward County Evaluation and Appraisal Report. Staff seeks Town Council support and approval to adopt the attached resolution with the Coalition's position statements as shown in Exhibit "A."

Staff has worked very closely over the last two months with the above mentioned firms and representatives from the Coalition Cities---City of Hallandale Beach, City of Hollywood, City of Miramar, City of Pompano Beach, City of Weston, and Town of Davie---to formulate a coordinated, forward-thinking position that address all needs and issues countywide. If the attached resolution is adopted, the Town of Davie would have joined the Broward League of Cities and other municipalities that had already passed resolutions expressing support and/or will put the item on their agendas this week.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** None.

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to approve this resolution

Has request been budgeted? Yes

If yes, expected cost: \$25,000

**Attachment(s):** Resolution and EAR Coalition Position Statements

**RESOLUTION NO. 2004 - 25**

**A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, EXPRESSING SUPPORT FOR REVISIONS TO BROWARD COUNTY'S EVALUATION AND APPRAISAL REPORT AND SUBSEQUENT CHANGES TO THE BROWARD COUNTY COUNTYWIDE LAND USE PLAN, AS OUTLINED IN THE ATTACHED EXHIBIT "A," TO PROTECT THE ABILITY TO REDEVELOP AND THE HOME RULE AUTHORITY OF MUNICIPALITIES IN BROWARD COUNTY; PROVIDING FOR DISTRIBUTION OF RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in 1974, Broward County adopted a home rule charter that established a countywide land use planning authority, including authority over certain land use decisions within municipalities; and

**WHEREAS**, only one other county in the state of Florida grants land use planning authority within municipalities to the county; and

**WHEREAS**, in light of the extraordinary authority granted to Broward County by the Charter, Article VIII of the Charter established the Broward County Planning Council as the countywide land use planning agency, with representation from the Broward County Commission, from municipalities (as selected by the County), and from the School Board, including both elected officials and private citizens; and

**WHEREAS**, the Broward County Planning Council oversees the development of the Countywide Land Use Plan and reviews municipal plans for consistency with the Countywide Land Use Plan; and

**WHEREAS**, the Broward County Planning Council is specifically designated as the Local Planning Agency for all amendments to the Broward County Countywide Land Use Plan, for purposes of the 1985 Growth Management Act; and

**WHEREAS**, the Charter requires a majority vote of the Broward County Commission to amend the Countywide Land Use Plan, following the Broward County Planning Council's review and

recommendation; and

**WHEREAS**, in order to allow municipal flexibility and discretion and to avoid the need for all municipal plan amendments to be voted on by the County Commission, the Countywide Land Use Plan incorporated elements of municipal land use flexibility, including residential flexibility units which represented the difference between the greater amount of residential development permitted by the Countywide Land Use Plan and the lesser amount of residential development allowed by a municipality's plan; and

**WHEREAS**, the County has previously provided for the mapping and approval of additional residential density for municipalities throughout the County by allocating reserve units, in proportion to the existing approved density for that municipality; and

**WHEREAS**, many municipalities have used up the majority of flexibility and reserve units available to them in key redevelopment areas under the Countywide Land Use Plan, and the Broward County Planning Council and Broward County Commission have failed to provide additional units for these areas; and

**WHEREAS**, even where flexibility and reserve units are available, the County Commission has adopted subjective and ill-defined "compatibility review" requirements for the use of such units by municipalities in many circumstances, thereby supplanting the land use decision-making role of municipalities and upsetting the balance of authority between municipalities and the County under the Charter with regard to land use planning; and

**WHEREAS**, over the past thirty years, many municipalities have engaged in substantial redevelopment planning, whether by the creation of community redevelopment agencies or by the adoption of area plans, and invested millions of dollars in infrastructure and other incentives for

redevelopment in these areas; and

**WHEREAS**, the current process to amend municipal land use plans is so time-consuming and cumbersome, in comparison to other counties, that it threatens to prevent the accomplishment of redevelopment in several key areas of Broward County, thereby denying those municipalities, the County, and its residents, of benefits such as increased tax base, modern construction safety standards, and a diverse housing stock; and

**WHEREAS**, the Broward County Commission has rejected the majority of recent efforts to provide areawide allocations of density, such as applications for Regional Activity Center land use designations; and

**WHEREAS**, the Broward County Commission has adopted a statement of collective vision, with the Broward League of Cities, providing that the Commission and League are “dedicated to the fundamental concept that the government closest to the people is the appropriate authority to serve the needs and requirements of the community,” and that they “support maintaining the integrity of home rule power, which allows counties and municipalities to develop and implement solutions to local problems” (emphasis added).

**WHEREAS**, the need for enhanced County control has diminished in the years since the adoption of the Charter due to the adoption of the 1985 Growth Management Act, Part II of Chapter 163, Florida Statutes, which imposed consistency requirements on local planning actions, implemented through the State’s regional planning councils and the Department of Community Affairs; and

**WHEREAS**, The Broward County Management and Efficiency Study Committee Final Report, dated June 1, 2000, concluded that “County government should concentrate effort and fiscal resources on regional services that cannot, or are not currently, be effectively provided at the municipal level,”

and did not identify land use planning as an appropriate regional service (p.5); and

**WHEREAS**, that Final Report also recommended that the Broward County Commission “establish new policies and procedures to assist cities in revitalization of the eastern sections of Broward County (p.22)” and place its highest priority on the regional task of acquisition of lands for open space; and

**WHEREAS**, the pending Chapter 163-required Evaluation and Appraisal Report process for the County is designed to identify exactly these kinds of long term changes and needs, and to provide the blueprint for subsequent plan amendments keeping the Countywide Land Use Plan in step with the needs of Broward County and its municipalities; and

**WHEREAS**, Broward County staff have projected substantial additional population over the next planning period (through 2030), and yet the draft Evaluation and Appraisal Report does not call for any additional development intensity to be allocated to municipalities on the Countywide Land Use Plan, without discretionary Broward County Commission review; and

**WHEREAS**, various goals, objectives and policies of the State Comprehensive Plan, the Strategic Regional Policy Plan for South Florida, and the Countywide Land Use Plan favoring redevelopment and the provision of a diverse housing supply are threatened by these policies of increased County control and decreased municipal home rule authority over land use planning; and

**WHEREAS**, hundreds of other municipalities in the state of Florida are entrusted with control over their land use destiny, and are not subjected to the duplicative layers of review and arbitrary controls from the County; and

**WHEREAS**, history and the County’s EAR report have proven that population growth trends will continue.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF DAVIE,  
FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the above stated recitals are hereby confirmed and adopted.

**Section 2. Statement of Support.** That the City/Town Council/Commission hereby expresses its strong support for changes to the pending Broward County Evaluation and Appraisal Report and subsequent amendments to the Countywide Land Use Plan consistent with those described on the attached Exhibit "A."

**Section 3. Distribution of Resolution.** That a copy of this resolution shall be distributed to the Broward County Commission and County Mayor; the Broward County Planning Council; the South Florida Delegation to the Florida House of Representatives and Florida Senate; the Secretary of the Florida Department of Community Affairs; the South Florida Regional Planning Council; the County Administrator of Broward County; the Administrator of the Broward County Planning Council; the Broward County League of Cities, and to other interested parties as designated by the City/Town Council/Commission.

**Section 4. Effective Date.** That this Resolution shall be effective immediately from and after its adoption.

PASSED AND ADOPTED THIS 4<sup>th</sup> day of February, 2004.

  
\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

  
asst TOWN CLERK

# **EAR COALITION POLICY STATEMENTS**

Town of Davie  
City of Hallandale Beach  
City of Hollywood  
City of Miramar  
City of Pompano Beach  
City of Weston

**WORKING DRAFT  
JANUARY 14, 2004**

## **POPULATION/ACCOMODATING GROWTH**

1. Direct necessary new residential density to areas for which municipal vision plans, master plans, or plans for redevelopment exist or are underway, or to areas which are under pressure to redevelop.

Some of the new residential density needed to accommodate the County's projected population growth should be directed to those areas within municipalities for which municipally-approved master plans or plans for redevelopment have been approved or are being prepared. Examples of these types of plans include: the 'Greenberg' Master Plan for downtown Ft. Lauderdale, the City of Hollywood's plans for Young Circle, as well as the redevelopment plans for existing Community Redevelopment Agencies. These existing municipal planning efforts should be recognized and implemented as part of the EAR-based Land Use Plan amendments to the County's Comprehensive Plan, without the need for individual municipal land use amendment applications.

2. Flexibility zone boundaries should be revised by the County to coincide with municipal boundaries.

The EAR Coalition supports the County staff's recommendation that current flex zone boundaries should be revised and simplified into flex zones which follow, and include entire municipalities. This revision should be County-wide and should not require the filing of individual applications by municipalities. Flex zones should no longer cross municipal boundaries.

Existing or historically recognized flex and reserve units within a municipality shall remain within the newly-created municipal flex zone.

3. New residential density must be allocated to specific, municipally based flex zones within the County, consistent with existing municipal land use or other plans, following individual meetings between the County and each municipality.

New residential density must be allocated to municipalities, within municipally-based flex zones, in order to allow for the municipalities' implementation of their approved vision plans, master plans, or plans for redevelopment. Sufficient density must be allocated to implement the plans, and it must be available to municipalities under mechanisms sufficiently flexible to effectively respond to the market-driven portion of redevelopment activity. Allocation of residential density to municipal flex zones should be accomplished as

---

part of the EAR-based Land Use Plan amendments to the County's Comprehensive Plan, without the need for individual municipal land use amendment applications.

4. Dwelling units within the municipal flex zones may be allocated by the municipality, at its discretion, through municipal zoning mechanisms to parcels of land within the jurisdiction; such allocation must be consistent, as determined by the municipality, with applicable approved municipal vision plans, master plans, or plans for redevelopment.

Municipal assignment of flex units within the municipal flex zone shall be subject to the following:

- A municipal determination that the assignment of flex is consistent and compatible with both existing plans, and adjacent development, unless adjacent development represents a land use pattern that a municipality's plan is attempting to change or redevelop.
- Existing BCLUP Policy 13.01.10 shall be revised so as to provide for substantives standards for County 'compatibility' review and shall only apply where a municipal assignment of flex units:
  - abuts another municipal or unincorporated jurisdiction, (and only if 'compatibility' review is requested by an objecting abutting jurisdiction(s)); or
  - abuts County-owned park facilities, or County-owned environmentally sensitive lands, and results in residential density of greater than 16 dwelling units/gross acre.
- An annual report of such allocation(s) shall be provided to the County for information and monitoring purposes.

---

## **RAC / MIXED USE LAND USE DESIGNATIONS**

### **5. Retain the flexibility of the existing RAC land use designation.**

The existing RAC land use designation is a powerful, flexible one, which has allowed successful implementation of mixed-use redevelopment plans for downtown Ft. Lauderdale and downtown Hollywood. The effectiveness of the RAC designation depends on its inherent flexibility: broadly defined uses, absence of mapped use boundaries within the RAC area, and the avoidance of bureaucratic hurdles otherwise required without the RAC designation (lengthy land use amendment processes, or uncertain 'compatibility' reviews). This substantive and procedural flexibility has often been an important ingredient in a municipality's ability to attract desired redevelopment. It allows municipal redevelopment efforts to react, within defined geographic areas and plans, to redevelopment proposals as the markets for such projects mature, and then to foster such additional proposals as are necessary to maintain the momentum of redevelopment.

The existing RAC designation thus fulfills its existing, stated intent as defined in the County's Land Use Plan: to facilitate development and redevelopment of mixed-use development, particularly in redevelopment areas; to provide incentives for quality development; and to allow the definition of the urban form at the municipal level.

The County staff's EAR analysis of the RAC designation, however, leaves the impression that the RAC designation is a victim of its own success. Staff suggests that it has fostered too much redevelopment, and it should thus be modified to include a series of performance and other standards to ensure that the regional and mass transit objectives of the RAC designation are achieved.

It is unclear why the regional and mass transit objectives of the RAC designation are underscored by staff. The most recent revisions to the category expanded the RAC's definition of regional activities to include tourism, employment, and educational uses and facilities. This legislative expansion of the purposes of RAC category suggests a broader reading of the category's intent. More importantly, it is unclear why the redevelopment and mixed-use objectives of the RAC category should take a back seat to the regional and mass transit objectives. The category's fostering of redevelopment and mixed-use development are valid policy goals in and of themselves, which have admittedly been achieved by the current RAC designation.

The regional and mass transit emphasis by County staff leads to a series of recommendations for amendment of the RAC designation, including proposed

size, use, location, and performance requirements. For example, County staff proposes a minimum size of 160 acres for an RAC, and minimum thresholds for residential and non-residential uses. It appears that the minimum acreage threshold was arrived at by reference to the Local Activity Center designation's 160-acre maximum. However, much smaller acreage thresholds were originally statutorily established for "Developments of Regional Impact" under Chapter 380, F.S., and smaller properties can certainly take on regional importance. The staff-proposed requirement ensures that new RACs will be 'regional' in character if they are large, but overlooks the role of other characteristics in determining regional significance. Are smaller or less intense areas to be limited to the use of the only current alternative mixed-use designation available, the LAC designation, with its 'neighborhood-scale' focus and approach? Also, County staff has not addressed how the minimum residential density and non-residential intensity thresholds for the RAC will be established.

The EAR Coalition suggests that, given the diversity of Broward County's land use patterns and its multiple needs and contexts for redevelopment and mixed-use development, arbitrary minimum sizes and intensity thresholds cannot effectively promote or enable diverse mixed-use urban forms. One size or type of RAC cannot be made to fit all.

Other County staff-recommended changes to the RAC designation are proposed: location/boundary standards, and a series of performance criteria to enhance mobility and transit. These can, if flexibly framed, support the mobility/transit goals of the RAC designation. However, the "require"/regulatory tone of each of the staff recommendations is a concern. The regulatory approach will, it is feared, restrict the powerful and effective flexibility of the current RAC designation, and thus vitiate the power of the RAC designation as a redevelopment tool. This result would leave many redeveloping areas without a flexible, mixed-use land use category necessary to undertake redevelopment.

Some final thoughts:

- Barrier Island – RAC Ban. The County staff EAR report proposes to prohibit the use of the RAC land use designation on the barrier island. This prohibition both: (i) denies the use of an effective redevelopment tool to areas of the County which are subject to significant redevelopment pressures and which have undergone significant municipal planning activities; and (ii) is at odds with established County policy which encourages the redevelopment and revitalization of the County's beach areas and the promotion of County tourism, clearly an important regional activity.

---

- Barrier Island – New Mixed Use Categories. Should the County choose to prohibit the use of the RAC designation to the barrier island, the County Land Use Plan must develop a set of alternative, flexible, and effective land use designations for the barrier island which will permit and enhance the redevelopment of the beach for both existing residents and future tourists. Current alternative mixed-use designations -- such as the Local Activity Center designation and its ‘neighborhood-scale’, pedestrian, and current geographic transit criteria -- are simply inappropriate and insufficient to accomplish effective beach redevelopment, especially given existing barrier island use and ownership patterns.

Development on Broward’s beaches and barrier island is not monolithic. Urban forms on the barrier island range from low-intensity areas (such as Hollywood’s North Beach area, and portions of Ft. Lauderdale’s beach area), to more high-intensity areas (such as Hallandale’s residential areas, and Ft. Lauderdale’s Galt Ocean Mile). Each of these urban forms, as well as others, has its appropriate place along Broward’s beaches.

The EAR Coalition would therefore suggest the development of a new series of “Barrier Island” land use categories. These would be flexible, mixed-use categories which would have the following characteristics:

- (i) Establish a series of development intensity standards which recognize and protect existing development patterns, while also facilitating mixed-use redevelopment efforts; and
- (ii) In specific separate categories, provide for more intense land uses catering to mixed-use and tourism related redevelopment ; and
- (iii) Require the adoption of municipally-drafted performance standards to address such issues as:
  - (a) height/bulk controls or criteria;
  - (b) municipal compatibility review;
  - (c) preservation or enhancement of public beach access;
  - (d) infrastructure and streetscape improvements;
  - (e) existing beach-related environmental requirements; and
  - (f) life safety issues (including hurricane evacuation standards and CCCL requirements, as applicable).

In this manner, subject to the County-established land use category’s broad and flexible definition levels of development intensity within appropriately defined

geographic areas, municipalities could regulate and foster redevelopment through specific development proposals at the municipal level.

The EAR Coalition looks forward to working with the County in the further development and implementation of this conceptual framework for the redevelopment of Broward's barrier island areas.

- Existing RACs. The County staff EAR report also proposes that existing RACs seeking revisions to either their boundaries or their uses be required to meet the new RAC criteria being proposed. It is unclear how this is to be accomplished. For example, if existing RACs fail to meet newly-established minimum intensity criteria, are they to be frozen in place and unable to evolve over time? Also, it is unclear whether the County can, or should, modify development plans/projects within existing RACs which are already underway based on the current RAC criteria.

- Property Owner Notification. The recommendation that all property owners within a proposed RAC be individually notified of proposed RAC status seems unduly burdensome, and is at best an indirect approach to address the potential problem of individual property rights identified as the source of the recommendation.

#### 6. Make the LAC more user-friendly.

The EAR Coalition agrees with County staff's recommendations that the LAC land use designation, if to prove viable, should be modified to make the category more user-friendly. We understand and share the desire to introduce more variety into the built environment, to get away from a single use, auto-dependent monoculture. However, the LAC designation's 'neighborhood-scale' is simply not suited to address all of the diverse, mixed-use redevelopment challenges facing Broward municipalities. Moreover, the LAC designation's embedded 'new urbanist' design principles express only one of several possible alternative urban forms. The LAC designation should permit many types of urban form in order to allow for physical expression of Broward's diversity.

Given the LAC designation's existing constraints, the modifications discussed below become particularly urgent if, as recommended by staff, the RAC designation is 'up-sized' through the imposition of minimum size and density/intensity criteria, thus leaving the LAC designation as the only alternative mixed-use designation currently included in the County Land Use Plan.

---

Conceptually, the EAR Coalition makes the following observations and suggestions:

- The EAR Coalition concurs in County staff's recommendation to delete the existing requirement that 75% of flex/reserve units first be exhausted prior to filing for additional LAC residential density. The Coalition agrees that this requirement acts as a disincentive to the use of the LAC designation.
- The Coalition also agrees that the second LAC issue identified by County staff — the 1/4 mile walk/transit requirement — is also of concern in the implementation of the LAC designation.

While these physical/location requirements may be appropriately applied to the staff-recommended additional "Transit Oriented Development" land use categories, they should not be imposed on the LAC designation if such designation is intended to be the generic, flexible local alternative to an RAC designation. Instead, transit-oriented land use designation(s) should be framed for transit-related locations or uses, and the LAC designation should be framed as a mixed-use category for local implementation of redevelopment plans, without physical transit-related constraints.

The EAR Coalition would accordingly suggest deletion of all physical 1/4 mile requirements from the LAC designation, while retaining flexible performance standards to encourage a pedestrian-friendly environment, to guide the definition of geographically-compact LAC areas, and to provide for current or future access to transit services.

The EAR Coalition supports the separate definition of alternative "Transit Oriented Development" land use categories, and looks forward to working with the County on the further definition and implementation of the TOD categories.

- The LAC designation's current treatment of park and open space needs to be clarified, and potentially modified. The existing 'no net loss' LAC policies serve as a disincentive to the use of the LAC category in those areas where land values are high, little vacant land remains, and it is difficult to retrofit existing use/ownership patterns to meet park and open space requirements.

In addition, the LAC category should include some mechanism to credit, or even provide incentives for, the creation of park or open space

through redevelopment activities (e.g., conversion of surface to structured parking). Also, some thought needs to be given to whether credit should also be made for private open space, which is made available to existing residents or users of an area through redevelopment efforts.

**7. Simplify residential uses(s) within 'Commercial' land use designation.**

- The EAR Coalition supports the County staff's efforts to revise and simplify the availability of residential uses within the 'Commercial' land use designation. The Coalition looks forward to working with the County in its development of these simplified requirements.

### **COASTAL/BARRIER ISLAND- COASTAL HIGH HAZARD AREA**

8. Allow rebuilding of built properties within the coastal high hazard areas (CHHA) which exceed land use category maximums, whether the redevelopment is disaster-related or voluntary, to the greater of: (i) the maximum of pre-existing, constructed density (residential) or intensity (non-residential), or (ii) the maximum density or intensity permitted under the certified municipal land use plan, whichever is greater.

Rebuilding of specific parcels of land on the barrier island, whether disaster-related or voluntary, should be permitted to a maximum density or intensity defined as the greater of:

- Existing, built dwelling unit density (residential) or square footage intensity (non-residential); or
- The maximum density or intensity permitted under the certified municipal land use plan.

In either rebuilding scenario, whether disaster-related or voluntary, any rebuilding shall be subject to the following criteria or requirements:

- The following health and safety requirements:
  - Then current flood elevations;
  - Then current building code requirements (including CCCL as applicable); and
  - Then current adopted hurricane evacuation requirements.
- In addition, the following existing environmental Land Use Plan Policies shall be additional requirements of barrier island redevelopment:
  - Beach dune protection and preservation (BCLUP Policy 9.03.01);
  - Sea turtle protection (BCLUP Policy 9.03.03); and
  - Protection of public beach access (BCLUP Policy 9.03.05).

Redevelopment of lands on the barrier island, whether disaster-related or voluntary, should encourage redevelopment and revitalization of the County's beach areas, and should promote tourism (BCLUP Policy 9.03.08).

The County staff EAR report related to rebuilding in the coastal high hazard area takes a similar approach to the above, but imposes a proposed additional constraint: residential rebuilding in the CHHA should not exceed the existing square footage of the residential building sought to be replaced. Thus, as proposed by staff, an existing residential building in the CHHA could not be rebuilt if the new building's square footage increased, even if the density or number of dwelling units decreased. An existing building of 100 thousand-square-foot dwelling units (100,000 square feet) could not be replaced by a building containing only 60 rebuilt dwelling units at two thousand square feet (120,000 square feet).

While the EAR Coalition recognizes that County staff's intent in proposing the square-footage maximum is to limit the bulk of residential rebuilding proposals in the CHHA, we feel that the square footage constraint is ill-advised because it is likely to have unintended consequences. It will tend to freeze in place the designs and development standards of the 50s, 60s and 70s, which may not be preferred or economically viable today, given increased land costs on the barrier island. Staff's concerns are better addressed through a requirement that municipal land development regulations address issues of bulk, height and shadow.

10. In the event the County determines that some or all of rebuilding within the CHHA should be implemented through an administrative determination of vested rights, such vested rights process should be established and administered by the applicable municipalities.